

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:04CR3025
)	
v.)	
)	
JOSE ALBERTO PEREZ,)	ORDER ON SECOND REVISED
)	PRESENTENCE INVESTIGATION
Defendant.)	REPORT
)	

The defendant has objected to paragraphs 28, 29, 32, 35, 37, and 49, and asks for an evidentiary hearing. I shall grant the evidentiary hearing with respect to the objections other than the objection to paragraph 49. As to paragraph 49 no evidence has been suggested and I find that category III does not over represent the seriousness of the defendant's past criminal conduct and the objection is overruled.

The United States in its Second Sentencing Statement, filing 38, asks leave to call Matthew Stienike as a witness in opposition to the defendant's objection to paragraph 32 of the Second Revised Presentence Investigation Report, testimony of whom is expected to last about one hour and a half, including cross-examination. The defendant has not identified any probable witness or substance of the testimony or length of time for oral examination, as required by the Memorandum and Order on Motion to Unseal, Oral Request for Second Revised Presentence Investigation Report and Oral Motion for Continuance of Evidentiary Hearing and Sentencing, filing 36.

Accordingly,

IT IS ORDERED that (1) the defendant's objection to paragraph 49 of the Second Revised Presentence Investigation Report is denied; and (2) an evidentiary hearing shall be held at the time of the sentencing, at which Matthew Stienike may be called as a witness by the

government in opposition to the defendant's objection to paragraph 32 of the Second Revised Presentence Investigation Report. Cross-examination will be allowed. All remaining objections will be ruled upon at that hearing.

Dated August 1, 2005.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge